

**MINUTES OF THE
SOUTH OGDEN CITY SPECIAL COUNCIL MEETING
Tuesday, May 26, 2015 – 6:00 p.m.
Council Chambers, City Hall**

COUNCIL MEMBERS PRESENT

Mayor James F. Minster, Council Members Sallee Orr, Brent Strate, Russ Porter, Wayne Smith and Bryan Benard

STAFF MEMBERS PRESENT

City Manager Matt Dixon, City Attorney Ken Bradshaw, and Recorder Leesa Kapetanov

OTHERS PRESENT

Walt Bausman, Gary Boyer

I. CALL TO ORDER

Mayor James F. Minster called the meeting to order at 6:01 pm and called for a motion to convene.

Council Member Strate moved to convene as the South Ogden City Council in a special meeting, with a second from Council Member Porter. In a voice vote Council Members Orr, Porter, Smith, Strate and Benard all voted aye.

II. DISCUSSION/ACTION ITEMS

A. Discussion on Washington Terrace Notice of Certification of Annexation Petition

The mayor turned the time to City Manager Dixon to facilitate the discussion. Mr. Dixon explained the property involved in the annexation petition was an approximately 300 foot swath of land on the south side of 5700 South owned by Bruce Stephens. The City Council had called for the special meeting to discuss how a petition for annexation of property to Washington Terrace would affect South Ogden and what the City's options were. He then turned the time to the Council for discussion.

Council Member Benard asked if City Attorney Bradshaw could instruct them as to what their obligations, options, and alternatives were concerning the matter. Mr. Bradshaw said one option was to protest the annexation petition. State code cited the process that needed to be followed to file the protest, but one of the requirements was that South Ogden had to state a reason for the protest. The reason had to be more substantial than just the fact that "we don't like it". He suggested the Council come up with several reasons for protesting the annexation if that is what they wanted to do. He also pointed out the time for filing the protest was fast running out.

Council Member Benard asked what some valid reasons for a protest were. Mr. Bradshaw said historically it was because services could not be provided in the area, overlaps were taking place, prior agreements were not being met, and so forth; there were numerous other reasons as well.

Council Member Porter said he did not see that the City had any valid grounds for a protest. The area was not in our plan and we did not own it.

Council Member Strate asked how large the property was that was being requested to annex. Mr. Dixon said it was 9.29 acres. Council Member Benard asked if the notice stated what the property was going to be used for. Mr. Dixon said it did not. The point was made that the annexation would create a peninsula.

Mr. Benard stated that the City needed to sit down with Washington Terrace and have discussion on the matter. He said the interlocal agreement did not say what Washington Terrace said it says, nor did it protect South Ogden for what the Council thought was important, e.g. continuity of the residential areas and school property that abutted it. The two cities should sit down and discuss it and if needs be amend the interlocal agreement so that both parties were satisfied. Mr. Benard cited the Ombudsman's letter and the need for the City to "avoid overlap" and said the discussion should also include potential overlap; on the part of South Ogden if they added Area 5 to the Annexation Policy Plan and on the part of Washington Terrace who had already included part of the golf course in theirs. His main concern with the property being considered for annexation into Washington Terrace was that the zoning would allow commercial development. It may be in South Ogden's best interest to submit a protest because of the timing, but make it clear to Washington Terrace that we wanted to sit down and discuss our concerns. Council Member Strate agreed.

Council Member Smith noted the timing of the annexation petition was not coincidence and a meeting should be held with Washington Terrace; if filing a protest would make that happen, he was in favor of it. He reminded the Council, however, of discussions they had had with Washington Terrace about the property west of the junior high in which Washington Terrace had said the property would be developed as residential, yet part of the property had been developed as commercial.

Council Member Orr agreed a discussion with Washington Terrace needed to take place. Both cities needed to be clear on what the interlocal agreement stated.

Mayor Minster said the direction of the discussion seemed to be to file a protest in order to gain more time to have a discussion with Washington Terrace. He suggested that himself, two council members, Mr. Dixon and Mr. Bradshaw be present for the discussion.

Council Member Porter asked if protesting the annexation would cause the property owner to request to annex more property and the matter would just escalate.

Council Member Benard said if that happened it would be very transparent as to what Washington Terrace was doing, but South Ogden would be in no worse position than it was now; however, not talking with Washington Terrace now would make it worse.

Council Member Porter said we could talk with Washington Terrace without filing a formal protest. Council Member Benard said Washington Terrace had pushed the issue and South Ogden needed to preserve its rights.

City Attorney Bradshaw pointed out the protest could be filed, dialogue could take place and then the protest could be withdrawn.

Mayor Minster asked if they were at the point that a motion could be made.

Council Member Strate moved to sit down and talk with Washington Terrace regarding annexation of property and file a protest with the County in the meantime. Council Member Benard asked if he could amend the motion to remove the phrase "annexation of property" and insert "the overlapping of annexation plans" in an attempt to satisfy the Ombudsman's recommendation. Council Member Strate agreed. The motion was seconded by Council Member Benard. The mayor asked if there was any further discussion.

Council Member Orr asked if the City had requested any discussion with Washington Terrace previous to this. City Manager Dixon said he had had conversations with them, but no formal request for discussion had been made. Council Member Porter said he wanted to explain his position before the vote was taken. He was just as concerned about the area as everyone else and did not want that to be misunderstood. However, the area

was not our property and as much as we wanted it to be developed a certain way, it was not in our city. It was the property owners right to do what he wanted with his property. Mr. Porter said he had tried to take the emotion out of the matter in order to make a decision. He had looked at it logically and legally and there was really nothing the City could do. Council Member Smith said he understood it was not South Ogden's property, but he did not see any harm in putting the area in the City's Annexation Plan. Council Member Benard pointed out the motion did not have any reference to discussing the interlocal agreement. City Manager Dixon added there had also been no articulation as to the reasons for the protest. City Attorney Bradshaw noted that Mr. Benard had a list and he was going to request them after the vote was taken in order to incorporate them into the protest letter. City Recorder Leesa Kapetanov asked if they wanted them part of the public record. Attorney Bradshaw felt tactically it would be better to not have them as part of the record. Council Member Benard asked if discussion concerning the interlocal agreement should to be included in the motion so that the agreement would satisfy both Washington Terrace and South Ogden City. **Council Member Strate moved to amend his previous motion to include discussion with Washington Terrace on amending the interlocal agreement. Council Member Benard seconded the motion to amend. Mayor Minster then called a voice vote. Council Members Benard, Strate, Orr and Smith voted aye. Council Member Porter voted nay.**

B. Finalization of Adoption of Annexation Policy Plan Under Ordinance 15-13

Mayor Minster said it may not be wise to go ahead with this part of the agenda. City Attorney Bradshaw suggested it would be better to table this item for the time being.

Council Member Benard moved to table item B, followed by a second from Council Member Smith. The voice vote was unanimous in favor of tabling the item.

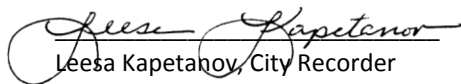
III. ADJOURN

Mayor Minster stated there was no further business and called for a motion to adjourn.

Council Member Porter moved to adjourn. The motion was seconded by Council Member Smith. The voice vote was unanimous in favor of adjourning.

The meeting ended at 6:28 pm.

I hereby certify that the foregoing is a true, accurate and complete record of the South Ogden City Special Council Meeting held Tuesday, May 26, 2015.


Leesa Kapetanov, City Recorder

Date Approved by the City Council _____ June 16, 2015 _____